UNITED
NATIONS

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Economic and Social
Council

Distr.
GENERAL

E/CN.4/Sub.2/1999/NGO/16
28 June 1999

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Sub-Commission on Prevention of
Discrimination and Protection
of Minorities
Fifty-first session
Item 7 (a) of the provisional agenda

HUMAN RIGHTS OF INDIGENOUS PEOPLES

INDIGENOUS PEOPLES AND THEIR RELATIONSHIP TO LAND

Written statement submitted by the Society for Threatened Peoples, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement, which is circulated in accordance with Economic and Social Council resolution 1996/31.

[16 June 1999]

1. The Society for Threatened Peoples has been striving for some time to influence the policy of the Government of the Federal Republic of Germany, as well as of the European Union, in order to promote a policy which is based on respect for the different established norms which safeguard the survival of indigenous peoples and grant them self-determination with regard to their development. Up to now, the standards of international law and of human rights appear to be insufficient or extremely limited in their effect, for example, ILO Convention No. 169, which has been ratified by only a small number of countries.

2. In particular, the land rights of indigenous peoples are restricted. Within the context of globalization and liberalization of markets all aspects of life are turned increasingly into merchandise. As a consequence; the rights to mineral resources or the right to an intact environment are negated. They are treated as of lower priority in comparison with the protection of investments. Even in countries where the national constitution is to protect the traditional land rights of the indigenous population, the existence of collective forms of property among the indigenous population with regard to their traditional territories is disregarded systematically, particularly in the framework of the exploitation of mineral resources, the construction of large industrial plants or hydroelectric power plants. The Adivasi in India are being displaced even now for the construction of dams without being offered compensation for their communal land. If any compensation is given at all, individual Adivasi families are compensated for the land directly farmed by them. Other community lands - field margins, fallow land, paths, forest and water - are not taken into account and are lost without compensation. These lands are, however, at least as important, for example in times of need, when fruits from the forest can be gathered or fallow land can be farmed again.

3. The acknowledgement of indigenous territory as a collective legal interest should also take into account the traditional administration of the communal lands. Traditionally, a piece of arable land is farmed, in the name of the community or extended family, by a single member of the community. This member, however, has to consult with the family or the village community, if he or she wants to use the land for other than the usual purpose; if, for example, a company wants to persuade the individual member to allow mining or reforestation in monoculture. As an individual with personal property, he or she would usually be helpless against the bait offered.

4. Therefore, it is urgent to establish a more comprehensive legal standard, i.e. a system of norms including collective rights. The draft United Nations declaration on the rights of indigenous peoples presented by the Working Group on Indigenous Populations is, in our opinion, the suitable catalogue of norms. However, since 1993 only marginal progress has been made towards the adoption of this declaration, although the draft had been discussed before for several years, with the active participation of government observer delegations. We appeal to the Sub-Commission to support with the necessary emphasis the speedy adoption of the declaration on the rights of indigenous peoples presented by the Working Group.

5. A further minimal standard is ILO Convention No. 169. We consider this convention to be an important instrument for shaping political relations

between the European Union and the countries where indigenous peoples live in such a way that they are regarded as partners of equal rank, with guaranteed rights to their territories. The Government of the Netherlands has already taken this step and will take the duties set out in the ILO convention as a guideline for its future policy. We consider it appropriate that the Sub-Commission should request States to follow this example and thus increase the legitimation of this standard.

6. In addition to the recommendations mentioned above we suggest that the Sub-Commission record this year's contributions by the participants in the Working Group on Indigenous Populations and publish them in the framework of the United Nations.